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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,444	04/06/2001	Curt V. Avallone	55,279 (20786)	6897

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EXAMINER	
BACKER, FIRMIN	

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/828,444	AVALLONE ET AL.	
	Examiner	Art Unit	
	FIRMN BACKER	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *44-80* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *44-80* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 44-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anandan et al. (U.S. PG Pub No. 2003/0021242) in view of Herrod et al (U.S. Patent 6,405,049).

3. As per claims 44 and 68, Anandan et al teach a system *(fig 1)* for providing personalized information *(targeted electronic communication)* to a user *(Panel member, 700)* in a commercial establishment, the system comprising at least one database storing information related to a user, a portable display unit operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment a location tracking system to determine a location of the portable display unit in a commercial establishment, a server computer the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personalized information for a user in a commercial establishment based on the location of the portable display unit and the information

related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).* Amanda et al fail to teach an inventive concept of providing a plurality or portable display units for use by a plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information. However, Herrod et al teaches plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information (*see column 10 lines 25-11 lines 3).* Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify inventive concept of Anandan et al to include Herrod et al's plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information because this would have ensured on the spot communication between the user and the commercial establishment.

4. As per claims 45, 71, Anandan et al teach a system for providing personalized information wherein the portable display unit comprises a user identification system to determine an identity of a user operating the portable display unit; and the server computer is configured to generate personalized information for an identified user based on the location of the portable display unit, the identity of the user and the information related to a user stored in the at least one database (*see abstract, paragraphs 0003, 0007, 0009, 0011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

5. As per claims 46, 74, Anandan et al teach a system for providing personalized information wherein the information related to a user includes at least one of a demographic profile of the identified user and a shopping history of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

6. As per claims 47, 72, Anandan et al teach a system for providing personalized information wherein the user identification system comprises a substrate reader, and the substrate reader is configured to obtain identifying information on the user from a loyalty card provided to the substrate reader be the user *(see paragraphs 0032, 0033).*

7. As per claims 48, 73, Anandan et al teach a system for providing personalized information wherein the user identification system includes the user interface of the portable display unit, the user interface being configured for a user to enter a personal identification number and associated password into the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

8. As per claims 49, 76, Anandan et al teach a system for providing personalized information wherein the personalized information includes a personalized shopping list (*see*

abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).

9. As per claims 50, 77, Anandan et al teach a system for providing personalized information wherein the personalized information further includes information on products on the personalized shopping list that are located in proximity to the location of the portable display unit *(see paragraphs 0032, 0033).*

10. As per claims 51, 75, Anandan et al teach a system for providing personalized information wherein the information related to a user further includes at least one selected from a group consisting of targeted advertisements, health information, nutritional information, promotional offers, offers on sale items, offers on discounted items, information on similar or associated items, manufacturer's coupons, storewide coupons, information on user specific favorite items, and information on user specific staple items (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

11. As per claims 52, Anandan et al teach a system for providing personalized information wherein the information related to a user includes the demographic profile of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

12. As per claims 53, Anandan et al teach a system for providing personalized information wherein the demographic profile of the identified user is determined from a questionnaire completed by the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

13. As per claims 54, Anandan et al teach a system for providing personalized information wherein the information related to a user includes a shopping history of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

14. As per claims 55 and 69, Anandan et al teach a system for providing personalized information wherein the location tracking system further comprises at least one receiver for receiving a unique identifier transmitted by the portable display unit, a position calculating system for calculating position data relating to a location of the portable display unit in a commercial establishment using the unique identifier of the portable display unit received by the at least one receiver; and at least one controller for transmitting position data relating to the location of the portable display unit generated by the position calculating system to the server computer (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

15. As per claims 56 and 70, Anandan et al teach a system for providing personalized information wherein the position calculating system calculates the position data relating to the

location of the portable display unit in a commercial establishment by at least one of biangulation techniques or triangulation techniques (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069)*

16. As per claims 57, Anandan et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes a radio frequency (RF) identification signal (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

17. As per claims 58, Anandan et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes an infrared identification signal *(see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

18. As per claims 59, Anandan et al teach a system for providing personalized information wherein the at least one receiver includes a plurality of transponders located at discrete locations throughout a commercial establishment *(see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

19. As per claims 60, Anandan et al teach a system for providing personalized information wherein the wherein the at least one receiver includes a plurality of transceivers located at

discrete locations throughout a commercial establishment *(see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

20. As per claims 61, Anandan et al teach a system for providing personalized information wherein the at least one transceiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment *(see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

21. As per claims 62, Anandan et al teach a system for providing personalized information wherein the portable display unit comprises a scanning device and the scanning device is configured to read product barcodes scanned by the identified user *(see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

22. As per claims 63, 78, Anandan et al teach a system for providing personalized information wherein the at least one transmitter transmits the personalized information to the portable display unit using a wireless local area net (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

23. As per claims 64, 79, Anandan et al teach a system for providing personalized information wherein the portable display unit further includes a microphone and a speaker, the server computer is configured to generate audio signals incorporating the personalized

information for a user; and the microprocessor of the portable display unit is configured to play on the speaker the audio signals incorporating the personalized information (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

24. As per claims 65, 80, Anandan et al teach a system for providing personalized information wherein the at least one transceiver transmits the personalized information to the portable display unit as a web page using hypertext markup language *(see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

25. As per claims 66, Anandan et al teach a system for providing personalized information wherein the server computer is configured to permit a user to access the Internet using the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

26. As per claims 67, Anandan et al teach a system for providing personalized information wherein the transceiver of the portable display unit and the at least one transceiver are wirelessly connected to permit two-way communication between the portable display unit and the server computer (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

Response to Arguments

27. Applicant's arguments filed August 18th, 2006 have been fully considered but they are not persuasive.

a. Applicant argues that Examiner improperly combined the disclosure of Herod and Amandan. And that there is not teaching or suggestion that would indicate the desirability of incorporating into Amandan the plurality of terminal from Herod. Examiner respectfully disagrees with Applicant's characterization of the combined prior arts. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case Amandan's invention is directed to a system and method for communicating with consumers using wireless technologies. Herod's invention relates to a data processing system comprising a portable terminal and a terminal mount wherein the mount includes a terminal interface and processor capability for processing data received from the terminal and the terminal includes a user interface, a mount interface and processor capability sufficient only to relay user input to the mount for processing and data from the mount to the user interface.

Amandan and Herod's inventions are in the same environment and complement each other and that their combination is not improper as Applicant argue.

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FIRMIN BACKER whose telephone number is 571-272-6703. The examiner can normally be reached on Monday - Thursday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FIRMIN BACKER
Primary Examiner
Art Unit 3621

October 24, 2006